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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,880	07/03/2003	Katsuhiko Yanagawa	D-1509	4182
32628	7590	08/10/2004	EXAMINER	
HAUPTMAN KANESAKA BERNER PATENT AGENTS SUITE 300, 1700 DIAGONAL RD ALEXANDRIA, VA 22314-2848			LE, THAO P	
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,880

Applicant(s)

YANAGAWA ET AL.

Examiner

Thao P. Le

Art Unit

2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledge is made of applicants' claim for foreign priority base on an application 2002-195060 filed in Japan on 07/03/2002.

Oath/Declaration

The oath/declaration filed on 10/02/03 is acceptable.

Election/Restriction

Examiner confirms that Applicants elected to prosecute Claims 6-16 and have withdrawn Claims 1-5 without prejudice.

Information Disclosure Statement

Information Disclosure Statement (IDS) filed on **07/03/03** and made of record.
The references cited on the PTOL 1449 form have been considered.

Claim Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koyama, U.S. Pub No. 2002/0047568, in view of applicant admitted prior art (AAPA).

Regarding claims 6, 12, Koyama discloses a method of producing an organic EL display similar to what recited in claims 6, 12. See Fig. 16 and paragraphs 248-251.

Koyama discloses the method comprising:

- . preparing an organic EL light emitting element by forming a first electrode 6903, an organic EL layer 6858, and a second electrode 6904 on a substrate (Fig. 16);
- . preparing a color filter layer 6905 layer by forming a color filter layer on a substrate;
- . forming a partition wall 6805 around a periphery of the color partition wall;
- . forming an outer sealing wall 6806 at an outer side of the partition wall;

- . filling an inside of the partition wall with a filler 6807;
- . adhering the organic EL light emitting element and the color filter while aligning with each other and curing the outer sealing wall (Fig. 16).

Koyama doesn't disclose the substrate that the color filter layer formed on is a transparent substrate. However, it is conventional and well known in the art that a transparent substrate is often used as the substrate of organic EL display in order to be transparent to the light converted by the color filter, and it is also admitted as a prior art in applicant's related art statement (**see conventional EL display, Fig. 6 and page 3 of specification**).

Regarding claim 7, Koyama discloses the step of forming a flatter layer 5056 in the TFT structure for flatter and the partition wall is formed outside a display region of the flatter layer (See Figs. 10A-16).

Regarding claims 8, 13, Koyama discloses the step of forming a thin film transistor 6902 on the substrate and connected to the first electrode 6903 (Fig. 16).

Regarding claims 10 and 15, Koyama discloses the outer sealing wall is formed of an ultraviolet type adhesive (paragraph 161)

Regarding claims 9, 14, Koyama discloses the first and second electrodes formed in a first and second line patterns and perpendicular to each other (See Fig. 16).

Regarding to claims 11 and 16, Koyama fails to disclose the refractive index of filler is 1.2-2.5 and visible light transmittance of filler is 50% or higher relative to light having a wavelength of 400-800 nm. However, The selection of such parameters such as **energy, concentration, temperature, time, molar fraction, refractive index, depth, thickness, wavelength etc.**, would have been obvious and involve routine optimization which has been held to be within the level of ordinary skill in the art.

"Normally, it is to be expected that a change in **energy, concentration, temperature, time, molar fraction, refractive index, depth, thickness, wavelength etc.**, or in combination of the parameters would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art ... such ranges are termed "critical ranges and the applicant has the burden of proving such criticality.... More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation."

In re Aller 105 USPQ233, 255 (CCPA 1955). See also *In re Waite* 77 USPQ 586 (CCPA 1948); *In re Scherl* 70 USPQ 204 (CCPA 1946); *In re Irmischer* 66 USPQ 314 (CCPA 1945); *In re Norman* 66 USPQ 308 (CCPA 1945); *In re Swenson* 56 USPQ 372 (CCPA 1942); *In re Sola* 25 USPQ 433 (CCPA 1935); *In re Dreyfus* 24 USPQ 52 (CCPA 1934).

When responding to the office action, Applicants' are advice to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the day of this letter. Failure to respond within the period for response will cause the application to become abandoned (see M.P.E.P 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao P. Le whose telephone number is 571-272-1785. The examiner can normally be reached on M-T (7-6).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Thao P. Le
Examiner
Art Unit 2818



HOAI HO
PRIMARY EXAMINER